

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

810245

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In Re:

JESUS SILVA, JR A/K/A JESUS SILVA



Order Filed on September 19,
2018 by Clerk U.S. Bankruptcy
Court District of New Jersey

Case No: 18-12122 - JKS

Hearing Date: July 26, 2018

Judge: John K. Sherwood

Recommended Local Form:



Followed



Modified

ORDER RESOLVING MOTION TO VACATE STAY AND/OR MOTION TO DISMISS WITH CONDITIONS

The relief set forth on the following pages, numbered two (2) through four (4) is hereby **ORDERED**.

**DATED: September 19,
2018**

Honorable John K. Sherwood
United States Bankruptcy Court

Applicant: Wells Fargo Bank, NA
Applicant's Counsel: Phelan Hallinan Diamond & Jones, PC
Debtor's Counsel: Russell L. Low, Esquire
Property Involved ("Collateral"): 309 Raritan Road, Linden, NJ 07036

Relief sought: ☒ **Motion for relief from the automatic stay**
☐ Motion to dismiss
☐ Motion for prospective relief to prevent imposition of automatic stay against the collateral by debtor's future bankruptcy filings

For good cause shown, it is **ORDERED** that Applicant's Motion(s) is (are) resolved, subject to the following conditions:

1. Status of post-petition arrearages:

☒ The Debtor is overdue for **5** months, from **March 1, 2018** to **July 1, 2018**.

☒ The Debtor is overdue for **5** payments at **\$1750.96** per month.

☐ The Debtor is assessed for _____ late charges at \$_____ per month.

☐ Applicant acknowledges suspense funds in the amount of \$_____.

Total Arrearages Due \$8,754.80.

2. Debtor must cure all post-petition arrearages, as follows:

☒ The debtor shall sell the subject property no later than by **January 31, 2019** and shall satisfy Wells Fargo Bank, NA's secured lien in full via proceeds of sale. In the event Debtor is unable to sell the subject property by January 31, 2019, Secured Creditor is entitled to re-list the MFR to pursue the entire post-petition deficiency.

☒ Beginning on **August 1, 2018**, regular monthly mortgage payments shall continue to be made.

☐ Beginning on _____, additional monthly cure payments shall be made in the amount of \$_____ for _____ months.

☐ The amount of \$_____ shall be capitalized in the debtor's Chapter 13 plan. Said amount shall be set up on Trustee's ledger as a separate Claim. Debtor(s) shall file a Modified Plan within 10 days from the entry

of this Order to account for the additional arrears to be paid to the secured creditor via Chapter 13 Plan and to adjust monthly payments to the Chapter 13 Trustee accordingly.

3. Payments to the Secured Creditor shall be made to the following address(es):

☐ Immediate payment:

☒ Regular Monthly payment:

**Wells Fargo Bank, N.A.
Attention: Bankruptcy Payment
Processing
MAC F2302-04C
1 Home Campus
Des Moines, IA 50328**

☐ Monthly cure payment:

4. In the event of Default:

☒ Should the Debtor fail to make any of the above captioned payments, or if any regular monthly mortgage payment commencing after the cure of the post-petition delinquency is more than thirty (30) days late, or if the debtor fail to sell the subject property by 1/31/2019 and satisfy Wells Fargo Bank, NA's lien in full, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor, and Debtor's attorney and the court shall enter an Order granting relief from the Automatic Stay

☒ In the event the Debtor converts to a Chapter 7 during the pendency of this bankruptcy case, the Debtor shall cure all arrears within ten (10) days from the date of conversion in order to bring the loan contractually current. Should the Debtor fail to bring the loan contractually current, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor, and Debtor's attorney and the court shall enter an Order granting relief from the Automatic Stay

☒ This agreed order survives any loan modification agreed to and executed during the instant bankruptcy. If any regular mortgage payment due after the execution of a loan modification is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor, and Debtor's attorney and the court shall enter an Order granting relief from the Automatic Stay

5. Award of Attorneys' Fees:

☐ The Applicant is awarded attorneys fees of \$_____, and costs of \$_____.

The fees and costs are payable:

☐ Through the Chapter 13 plan. These fees/costs shall be set up as a separate claim to be paid by the Standing Trustee and shall be paid as an administrative claim.

☐ to the Secured Creditor within _____ days.

☐ Attorneys' fees are not awarded.

6. This Agreed Order survives any loan modification agreed to and executed during the instant bankruptcy.